

Summary of SB 255 P3 Vertical Construction

According to the current proposed substitute to the bill, when a local government has identified a public need for a project to be located on real property owned or leased by the local government, the governing entity may solicit proposals from private entities – or private entities may initiate their own proposal to develop or operate a project. If a private entity initiates its own proposal for a project, it must include a project description, feasibility statement, schedule for the initiation and completion of the project, a financial plan setting forth the private entity's plans for financing the project, a business case statement, contact information for the private entity and other additional information that the county or city may request. The local government may charge a reasonable fee to cover the cost of processing, reviewing and evaluating the request. If the local government decides to accept the proposal, then it must provide at least 45 days public notice that it is seeking competing proposals. Local governments would be required to issue reasonable guidelines to promote competition, including: reasonable criteria for selecting among proposals; financial review and analysis procedures (such as, cost benefit analysis, assessment of opportunity cost, life cycle costs, and relevant studies and analysis related to project); procedures to consider nonfinancial benefits of the project; suggested timelines for selecting proposal and negotiating an agreement; procedures to determine the adequacy of the information released when seeking competing proposals; criteria to ensure that local government considers the extent of competition before selecting a proposal; and criteria for determining any fees for reviewing private entity initiated proposals. A Partnership for Public Facilities and Infrastructure Act Guidelines Committee made up of thirteen individuals, including one county official and one city official, would develop guidelines that are mandatory for state agencies and optional for local governments. The governing authority may grant approval of the project if it determines that there is a public need for or benefit from the project, the estimated cost is reasonable in relation to similar facilities and the private entity's plan will result in the timely development or operation of the project. The governing authority would not be required to select the proposal with the lowest price, but may consider: the proposed cost of the project; the general reputation, industry experience and financial capacity of the private entity; the proposed design; the eligibility of the facility for accelerated selection, review and documentation timelines; local citizen and government comments; benefits to the public; the private entity's compliance with a minority business enterprise participation plan; the private entity's plans to employ local contractors and employees; and other criteria deemed appropriate by the local government. The local government and private entity would be required to enter into a comprehensive agreement that includes: a thorough description of the duties of each party in the completion and operation of the project; dates and schedules for completion; user fees, lease payments or service payments; reimbursements; a process for the review of plans and specifications; a process for the periodic and final inspection of the project; delivery of maintenance, performance bonds, payment bonds, letters of credit, etc.; submission of public liability insurance; a process for monitoring the practice of the private entity; filing of appropriate financial statements; and policies and procedures governing the rights and responsibilities if the agreement is terminated or if there is a material default by the private entity.